UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
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January 7, 2013

Ref: 8EPR-N

Mr. Curtis Pledger
Manager, Provo Area Office
Bureau of Reclamation,
302 East 1860 South
Provo, Utah 84606-7317

Re: Narrows Project Comments
FSEIS # 20120361

Dear Mr. Pledger:

The U.S. Environmental Protection Agency, Region 8 (EPA) has reviewed the U.S. Bureau of Reclamation's Supplemental Final Environmental Impact Statement (FSEIS) for the Narrows Project and offers these comments recognizing that the Bureau of Reclamation (BOR) has already issued a Record of Decision based on this EIS. These comments are provided to inform the Clean Water Act (CWA) Section 404 permit application process that is expected to follow, and highlight the importance of the CWA comments that EPA previously provided for this project.

Project Review Background: The Narrows Project has been under development for many years. Two previous EISs have been filed and reviewed by EPA over the years. On June 8, 2010, the EPA commented on the draft EIS. We commented concurrently on the U.S. Army Corps of Engineers (USACE) Public Notice for a CWA Section 404 permit for the discharge of dredged or fill material into waters of the U.S. associated with the construction of the Narrows dam and reservoir. Our comments on the CWA Section 404 permit were addressed to the USACE, and included a CWA Section 404(q) elevation under the 1992 Memorandum of Agreement between EPA and USACE. In accordance with the 404(q) elevation process, EPA sent a second letter to the USACE on July 6, 2010 (both letters to the USACE are attached). EPA has noted significant direct, indirect and cumulative impacts to aquatic resources resulting from the proposed Narrows dam and reservoir and the FSEIS does a thorough job of documenting those impacts, including the following:

- Direct impacts to 89 acres of waters of the U. S., including inundation of 1 mile of Upper Gooseberry Creek and 4.3 miles of small tributaries to Gooseberry Creek, and a direct loss of 84 acres of high value montane wetlands;
- Inundation / flow modification of prized trout streams, including loss of important spawning and rearing habitat for cutthroat trout;
- Reduction by 74% of annual flows on Middle Gooseberry Creek below the proposed reservoir and loss of spring flushing flows which maintain riparian habitat;
- Increase by approximately 200% of average flows on Cottonwood Creek in July and August;
- Reduction in Scofield Reservoir operating levels at (10% reduction in reservoir surface area) and storage releases to Price River area; increased probability of fish kills due to low water levels and eutrophication; and

- Increased salinity in the Colorado River due to water depletion (increase of 0.54 mg/L, measured at Imperial Dam).

In the FSEIS, the Bureau of Reclamation has improved both the analysis of impacts and the identification of available mitigation measures. While the FSEIS may be sufficient for the decisions made by the Bureau of Reclamation, the EPA has recommended to the USACE that a wider range of alternatives be analyzed before the CWA Section 404 permit decision, in order to determine the "least environmentally damaging practicable alternative" (LEDPA) under the permit regulations at 40 C.F.R. Part 230 (CWA Section 404(b)(1) Guidelines). This recommendation is consistent with our comments on the DEIS for this project and previous letters to the USACE. The preferred alternative does not appear to be the LEDPA presented within the FSEIS. In addition, the project purpose statement and alternative screening process resulted in elimination of potentially less damaging alternatives at other locations. As a result, pursuant to 40 C.F.R. § 230, the USACE may not be able to issue a CWA Section 404 permit.

In response to comments on the DSEIS, a "Section 404(b)(1) Analysis" was prepared for the Narrows project (Appendix K of the FSEIS). The findings of the analysis in Section 3 of Appendix K of the FSEIS conclude that the preferred alternative could be considered the LEDPA because "mitigation measures for the Proposed Action Alternative were increased to compensate for all impacts, effectively reducing the overall impact to zero." The CWA Section 404 permit regulations at 40 C.F.R. 230 do not allow consideration of compensatory mitigation until all practicable avoidance and minimization measures have been developed in the alternatives analysis. In other words, mitigation cannot be used to select the LEDPA. Consequently, it appears that both smaller reservoir options presented in the FSEIS would be less damaging than the proposed action.

Through the CWA Section 404 permitting process, we will continue to work with the USACE to evaluate potential practicable alternatives that would avoid the inundation of 89 acres of wetlands and streams of Gooseberry Creek and its tributaries by the proposed reservoir. These streams also provide important spawning and rearing habitat for young-of-year trout within the broader watershed. Because the proposed action will create a permanent barrier to movement along Gooseberry Creek, these spawning and rearing habitats will no longer be connected to the watershed downstream. The proposed wetlands and riparian habitat mitigation measures, restoration of year-round flows in these creeks and improving fishery habitat on other streams will likely not offset the loss of connectivity to and presence of spawning and rearing habitat in these streams. We anticipate that as the CWA Section 404 permitting process proceeds, additional environmental review is likely to be needed.

Thank you for considering our comments. If you have any questions regarding our comments, please contact Phil Strobel at (303) 312-6704, strobel.philip@epa.gov or Dana Allen at (303) 312-6870, allen.dana@epa.gov.

Sincerely,

Suzanne J. Bohan
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

cc: Peter Crookston, BOR, PRO-774
Tim Witman, USACE